

LR 1045 - Sale of Property

LR 1045-1 Notice

Unless otherwise ordered as provided by law, the notice of sale of property in an action *in rem* will be published daily in accordance with LR 1050-1 for a period of at least ninety-six (96) hours prior to the day of sale.

LR 1045-2 Payment of Bid

The person whose bid is accepted will immediately pay the marshal the full purchase price if the bid is not more than \$500; or a deposit of \$500 or 10 percent of the bid, whichever sum is the greater, if the bid exceeds \$500. The bidder will pay the balance of the purchase price within seventy-two (72) hours thereafter, excluding Saturdays, Sundays, and holidays.

If an objection to the sale is filed within that time, the bidder is excused from paying the balance of the purchase price until three (3) days after the sale is confirmed. Payments to the marshal will be made ~~in cash~~ by money order, certified check, or cashier's check. A judge may specify different terms in any order of sale.

LR 1045-3 Penalty for Failure to Pay Balance of Bid

(a) Late Payment

A successful bidder who fails to pay the balance of the bid within the time allowed under these rules or a different time specified in an order by a judge, will also pay the marshal the costs of keeping the property from the date payment of the balance was due, to the date the bidder takes delivery of the property. The marshal may refuse to release the property until this additional charge is paid.

(b) Default

A person who fails to pay the balance of a bid within the time allowed is deemed to be in default and a judge may, at any time thereafter, order a sale to the second highest bidder or order a new sale where appropriate. Any sum deposited by the bidder in default will be forfeited and applied to pay any additional costs incurred by the marshal by reason of the forfeiture and default, including costs incident to a resale. The balance of the deposit, if any, will be retained in the registry subject to further order of the Court.

LR 1045-4 Accounting by the Marshal

At the conclusion of the sale, the marshal will forthwith file a written report to the Court of the fact of sale, the date thereof, the price obtained and the name and address of the buyer.

LR 1045-5 Confirmation

(a) Without Order of Court

A sale will stand confirmed as of course without any affirmative action by the Court unless

1. A written objection is filed within the time allowed under these rules; or
2. The purchaser is in default for failing to pay the balance due the marshal.

(b) On Motion

If an objection has been filed, or if the successful bidder is in default, the marshal, the objector, the successful bidder, or a party may move the Court for relief. The motion will be heard summarily by a judge. The person seeking a hearing will apply to the Court for an order fixing the date of the hearing and directing the manner of giving notice and will give written notice of the motion to the marshal and all persons who have an interest. The judge may confirm the sale, order a new sale, or grant such other relief as justice requires.

LR 1045-6 Objection to the Sale

(a) Manner and Time for Objecting

A person may object to the sale by filing a written objection with the clerk and depositing a sum with the marshal which will pay the expense of keeping the property for at least seven (7) days. Payment to the marshal will be made ~~in cash~~by certified check, or cashier's check.

The objector must give written notice of the objection to the successful bidder and the parties to the action. The written objection must be endorsed by the marshal with an acknowledgment of receipt of the deposit prior to filing. The objection must be filed within three (3) days after the sale, excluding Saturdays, Sundays, and holidays.

(b) Disposition of Deposits

1. If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the marshal in keeping the property until it is resold, and any balance remaining will be returned to the objector without delay. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.
2. If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day sale is confirmed, and any balance remaining will be returned to the objector forthwith.

LR 1045-7 Title to Property Sold

Failure of a party to give required notice of the action and arrest of a vessel, cargo or other property or required notice of the sale, may afford grounds for objecting to the sale but does not affect the title of the purchaser of the property.

Amendment History to LR 1045	
December 1, 2009	
LR 1045-1	Time changed from "four (4) days" to "at least ninety-six (96) hours."
LR 1045-2	Time changed from "three (3) days" to "seventy-two (72) hours."
<u>April 1, 2022</u>	
<u>LR 1045-2</u>	<u>In the first paragraph, added a comma after "Sundays."</u> <u>In the second paragraph, deleted "in cash" and inserted "by money order,"</u> <u>and added a comma between "check" and "or."</u>
<u>LR 1045-6(a)</u>	<u>Deleted "in cash" and inserted "by" before "certified." Deleted the comma</u> <u>between "check" and "or."</u> <u>In the second paragraph, added a comma after "Sundays."</u>